THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NOs. 19218, 19219, 19227, 19230, 19232, 19251, 19305, 19344, 19372, 19391, 19475, 19754, 19767, 19801, 19849 and 19858 OF 2005

Dated 8th September 2005

Between:

D.Veerabhadraiah S/o.Krishnaiah,

Aged 56 years, Occu: ADC, E.80796,

R/oNew City Colony, Pargi, R.R.District & others

…Petitioners

And

The Regional Manager, APSRTC,

Rangareddy Region, Mahatma Gandhi Bus station,

Hyderabad & others.

…Respondents

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WRIT PETITION NOs. 19218, 19219, 19227, 19230, 19232, 19251, 19305, 19344, 19372, 19391, 19475, 19754, 19767, 19801, 19849 and 19858 OF 2005

COMMON ORDER:

In this batch of writ petitions, the employees of APSRTC challenged the orders passed by their employer, imposing the punishment of stoppage of increments, with cumulative effect. The only ground pleaded in all these writ petitions, is that the punishment of stoppage of increment, with cumulative effect, was imposed, without conducting enquiry. They contend that such a punishment constitutes a major

penalty, and it could not have been imposed, without conducting enquiry.

Learned counsel for the petitioners have relied upon the judgment of the Supreme Court in ***KULVANT SINGH GILL V. STATE OF PUNJAB***, and other judgments that have been rendered by the Supreme Court and this Court, following the same.

Learned Standing Counsel for the Corporation, on the other hand, submits that though the Supreme Court held that the stoppage of increments, with cumulative effect, is a major penalty, there is enormous delay, on the part of the writ petitioners, in challenging the orders of punishment, and it is impermissible for them, to claim the benefit of the said judgment, at this point of time.

Identical question was considered by this Court, in W.P.No.6930 of 2003, and in the order dated 23.4.2003, the relevance of the ratio in ***Kulvant Singh Gill's*** case (1 supra), as well as the effect of the delayed challenge to the orders of punishment, was considered. It was held that in view of the judgment in ***Kulvant Singh Gill's*** case (1 supra), it is impermissible for the Corporation, to impose the penalty of stoppage of increments, with cumulative effect, without conducting enquiry. When it came to the question of grant of relief, reliance was placed on the judgment of the Supreme Court in ***GURMAIL SINGH v. PRINCIPAL, GOVERNMENT COLLEGE OF EDUCATION,*** and it was observed that the belated challenge to such orders may, at the most, result in denial of the monetary benefit, but not the denial of relief, as a whole.

Learned Standing Counsel for the Corporation submits that a Division Bench of this Court allowed the W.A.No.1359 of 2005, setting aside the order passed by the learned Single Judge, granting similar relief. However, the verification of the facts of the said case, discloses that the order of punishment was passed, much before the Supreme Court rendered its judgment in ***Kulvant Singh Gill's*** case (1 supra). It has come on record that in several matters, where the orders of punishment, passed subsequent to 1990, were dealt with by this Court and necessary relief was granted, the Corporation itself implemented it.

The objection raised on behalf of the respondents, as to the delay, cannot be brushed aside, as a whole. The relevant rules in their Service Manual, do not provide for any distinction between stoppage of increments, with cumulative effect, and those without cumulative effect. The distinction between these two kinds of punishments came to be maintained, only by virtue of the judgment of the Supreme Court in ***Kulvant Singh Gill's*** case (1 supra), which was rendered on 13.9.1990. It is by virtue of this precedent, that it became imperative for the respondents, to maintain the distinction between the two kinds of punishments, and to impose the one for stoppage of increments, with cumulative effect, only after conducting enquiry. For all practical purposes, 1st October 1990, can be taken as the cut off date, for application of this principle.

For the foregoing reasons, the writ petitions are disposed of, with the following directions:

a. The orders passed by the Corporation, subsequent to 1.10.1990, directing stoppage of increments, with cumulative effect, without conducting any departmental enquiry, are held to be illegal.

b. So far as the grant of consequential relief is concerned, the respective petitioners shall not be entitled for monetary benefit, on account of their belated challenge to the orders of punishment. The impugned orders shall be treated, as those inflicting such punishment, without cumulative effect, but not entitling the petitioners for any monetary benefit, in the form of payment of arrears, on that account. The parties shall be entitled for the benefit of this order, prospectively.

There shall be no order as to costs.

8th September 2005

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